

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA

PHOENIX PROPERTIES, LLC,)
PHOENIX PROPERTIES OF)
BROOK VALLEY 1, LCC, PHOENIX)
PROPERTIES, OF BROOK VALLEY 2, LLC,)
R&L VALLEY PROPERTIES, LLC,)
RCS & SONS, INC., ROBERT C. SCHROPP,)
individually, LEO A. DAHLKE, individually,)
ROBERT C. SCHROPP, as a Partner/Debtor-)
in-Possession of BROOK VALLEY IV JOINT)
VENTURE and BROOK VALLEY VII JOINT)
VENTURE, and LEO A. DAHLKE, as a)
Partner/Debtor-in-Possession of BROOK)
VALLEY IV JOINT VENTURE and BROOK)
VALLEY VII JOINT VENTURE,)
)

Plaintiffs,

vs.

WILLIAM L. BIGGS, BIGGS & STOEHR, a)
Partnership of Professional Corporations,)
JERRY M. SLUSKY, and GROSS & WELCH,)
a Professional Corporation,)
)

Defendants.)

Case No. 8:07-cv-46

ORDER APPROVING
STIPULATION AND FOR
DISMISSAL WITHOUT PREJUDICE

This matter is before the Court on the Stipulation of the parties that this case be dismissed, without prejudice to refiling this action on the condition that in the event any court determines that jurisdiction for this dispute is properly vested in this Court, by virtue of 28 U.S.C. §1334(b) as constituting a proceeding under Title 11, or arising in or related to cases filed under Title 11, or for any other reason, then Plaintiffs may refile this action in the United States District Court for the District of Nebraska and the commencement date shall be deemed to be February 2, 2007, the date of filing the instant action.

IT IS ORDERED that the Stipulation of the parties is approved and this action is hereby dismissed without prejudice for the reason that the claims made in the Complaint will be litigated in the District Court of Douglas County, Nebraska, in a case caption *Phoenix Properties, et al. v. Biggs, et al.*, at Doc. 1068, No. 701.

The Court further finds and approves the conditions of the dismissal contained in the Stipulation, that being that if any court determines that jurisdiction for this dispute is properly vested in this Court, by virtue of 28 U.S.C. §1334(b) as constituting a proceeding under Title 11, or arising in or related to cases filed under Title 11, or for any other reason, then Plaintiffs may refile this action in the United States District Court for the District of Nebraska and the commencement date shall be deemed to be February 2, 2007, the date of filing the instant action.

Dated this 16th day of January, 2008.

BY THE COURT:

s/ Joseph F. Bataillon
U.S. District Court Judge

Prepared and submitted by:

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